IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 19.01.2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

Crl.A.No.301 of 1999

Krishnasamy .. Appellant/Complainant

vs.

1.K.Arunan
2.Aru.Mohanambal .. Respondents/Accused

Prayer: This criminal appeal has been filed u/s 378 Cr.Pc against judgment dated 07.12.1998, made in C.C.No.75 of 1995 on the file of the Court of the Judicial Magistrate, Palladam.

For Appellant : Mr.K.Govi Ganesan

For Respondents : Mr.N.Chandrasekaran

JUDGMENT

The complainant in C.C.No.75 of 1995 on the file of the Court of the Judicial Magistrate, Palladam, is the appellant herein. The private complaint was preferred by the appellant against the accused under Section 200 of Cr.P.c. for offence under Section 499 IPC punishable under Section 500 IPC.

2. The short facts relevant for the purpose of deciding this appeal are as follows:

The complainant is working as a Village Administrative Officer in Elavanthi village in Thirupur Taluk. The public are having enormous amount of respect and regard for the complainant as well as the complainant's family. The accused have published defamatory statements about the complainant in their magazine by name 'Arunan' dated 5.9.1994. The accused have published defamatory statement against the complainant. The above said defamatory statements are published at page 2 and 23 of Ex.P.1-magazine. In the defamatory publication at page 2 of the said magazine the complainant was shown as an animal and it has further been imputed that the complainant has deceived a woman. It has further been imputed that the Court's summons were avoided by paying bribe. The allegation that the complainant has avoided Court's

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summons is not true. Ex.P.2 is the summons received by the complainant. Ex.P.3 is the diary maintained by the advocate in respect of the said case. In the said case complainant was arrayed as A9. The news published at page 23 to the above said magazine is also false. The above said defamatory publication had imputed bad reputation among the public. A notice was sent on 26.10.1994. Ex.P.4 is the advocate's notice. Ex.P.5 is the acknowledgment. No reply was sent by the accused. On 5.5.1995 the accused have published an errata seeking apology for the above said defamatory publication. P.W.1 joined in his work on 8.7.1984. P.W.2-Deputy Tahsildar Janakiraman informed the complainant that he has been placed under suspension on 28.11.1993 and also on 9.8.1996. As per Ex.P.7 and Ex.P.8 (series), the complainant obtained necessary orders from the State Administrative Tribunal and joined in the work.

3. When incriminating circumstances under Section 313 of Cr.P.C were put to the accused, the accused denied their complicity with the crime. The accused have examined Jayapal and Lakshmi as D.W.1 and D.W.2 respectively. D.W.1-Jeyapal is the author of the above said defamatory statement in Ex.P.1-Magazine 'Arunan'. D.W.2 has alleged that the complainant had abducted her and in this connection the complainant was arrested and thereafter to gather information D.W.1 met P.W.1 and at that time the complainant had admitted that the statement published in Ex.P.1-Magazine are all true.

4. On the basis of the available oral and documentary evidence the learned Judicial Magistrate has come to the conclusion that the guilt against the accused under Section 499 IPC is not proved to warrant conviction under Section 500 IPC and consequently, acquitted the accused form the offence. Against the above said findings of the learned Judicial Magistrate, the complainant has preferred this appeal.

5. Now the point for determination in this appeal is whether the findings of the learned Judicial Magistrate in C.C.No.75/1995 dated 7.12.1998 is liable to be set aside for the reasons stated in the memorandum of appeal?

6.The Point:-

6(a) The alleged defamatory statement imputing disrepute to the complainant published in the magazine 'Arunan' marked as Ex.P.1 and Ex.P.6. According to the complainant, the above said Ex.P.1 and Ex.P.6 tarnish his reputation as a Village Administrative Officer and the imputation made in the defamatory statement in Ex.P.1 and Ex.P.6 has harmed the reputation of the complainant. On the side of the accused D.W.1 and D.W.2 were examined. D.W.1 is the author of Ex.P.1-statement. D.W.2 is one Lakshmi, who had written a letter-Ex.D.1 to D.W.1 alleging that she

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sell in love with one Murugesan, S/o.Veluchmay, who had treated cruelly and drove her out of the marital home only due to the instigation of Village Administrative Officer Krishnasamy (Complainant/appellant herein), who is the uncle of her husband Murugesan. In Ex.D.1-letter it has been further stated that she was criminaly intimidated, which drove her to prefer a complaint with the police, who have registered the FIR but, no further action was taken by the Police on her complaint. In the mean time the appellant-Krishnasamy has also arranged for the second marriage for her husband Murugesan. On the basis of the said letter-Ex.D.1 a news item in Ex.P.1 was published on 5.9.1994 in the Magazine 'Arunan' about the appellant. The main imputation in Ex.P.1 are that "The appellant-Krishnasamy is working as Village Administrative Officer and he is an accused in a criminal case since he has deceived a woman, who had preferred a complaint under Section 494 IPC and Section 109 IPC before the Judicial Magistrate, Palladam, and inspite of eight summons, the appellant without receiving the same is dodging and roaming about in the village and there is also further allegation that one police constable by name Sriram is giving protection to the said Village Administrative Officer-Krishnasamy, to avoid service of summons to him for nearly six months and that Krishnasamy is receiving bribe as a Village Administrative Officer and a portion of it was given to the police in order not to take any action against the Village Administrative Officer. Ex.P.6 also imputes that the appellant is corrupt and a criminal complaint is pending against him in C.C.No.23/94 before the Judicial Magistrate, Palladam, which was preferred by Lakshmi (D.W.2) and that after registering the FIR in the said criminal case no further action has been taken.

6(b) The only point to be decided is whether the above said two publications will impute disrepute to the complainant attracting an offence under Section 499 IPC warranting conviction under Section 500 IPC. The accused would say that the above said publications have been published in good faith for the protection of others interest (D.W.2). D.W.2 admits about her letter written to the magazine 'Arunan' and that D.W.1 came from the office of the above said magazine 'Arunan' enquired her and what all she narrated to D.W.1 reflected in Ex.P.1 and Ex.P.6 (statements). D.W.1 also corroborated the evidence of D.W.2. The complainant, who has examined himself as P.W.1 in the cross-examination has admitted that lakshmi has preferred a private complaint before the Court of Judicial Magistrate, which was numbered as C.C.No.130/1996. As per Exception 9 to Section 499 IPC if any imputation is made in good faith by a person for protection of his or others interest then it will not be construed as an offence of defamation. Exception 9 to Section 499 IPC runs as follows:

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"It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good."

After taking into consideration the evidence available on record, the learned Judicial Magistrate has come to the correct conclusion that the alleged statements in Ex.P.1 and Ex.P.6 are exempted under Exception 9 to Section 499 IPC and hence, the accused are not guilty under Section 499 IPC to warrant conviction under Section 500 IPC. The above said well considered judgment of the learned Judicial Magistrate does not warrant any interference from this Court. Point is answered accordingly.

7. In the result, the appeal is dismissed confirming the judgment in C.C.No.75/1995 on the file of the Court of the Judicial Magistrate, Palladam.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To,

1. The Judicial Magistrate, Palladam

2. do Thro' The Chief Judicial Magistrate, Coimbatore.

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